

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 243 OF 2005

M/S PRESTIGE HOLIDAY RESORTS
PVT.LTD.,CAVELOSSIM,SALCETTE GOA.

....Petitioner

Versus

THE CHIEF TOWN PLANNER AND 2 ORS.,

....Respondents

Shri S.D. Lotlikar, Sr. Advocate with Shri A.D. D'Souza, Advocate for the
Petitioner.

Shri S.S. Kantak, Advocate General with Shri S.R. Rivonkar Govt
Advocate For R.1 & 2.

Coram:- D. D. SINHA &
N. A. BRITTO, JJ.

Date:- 21st November, 2005

P.C.:

Heard Mr. S.D. Lotlikar, the learned Senior Counsel for the
Petitioner.

2. The Writ Petition is directed against the Order dated 16.6.2005 passed by the Chief Town Planner, whereby the Holiday Resort/residential complex owned by the Petitioner is directed to maintain parking space as per approved plans dated 20.11.2000 within thirty days of receipt of this direction, failing which the Village Panchayat, Benaulim shall restore the areas marked as parking space as per approved plan. Another direction is issued in the impugned Order is to discontinue the restaurant within thirty days of receipt of this direction failing which the Village Panchayat Benaulim shall revoke the licence and stop the use of the said premises.

3. Mr. Lotlikar, the learned Senior Counsel contended that so far as the issue regarding parking space is concerned, there is alternate site in

possession of the petitioner and can be used as parking space and appropriate proposal in this regard will be submitted to the competent authority. It is further contended that so far as the aspect of height of the restaurant of the petitioner, considered by the authority on the basis of the concept of 'habitable room' is concerned, without prejudice to the rights of the petitioner, corrective steps would be taken. Mr. Lotlikar, the learned Senior Counsel further contended that the petitioner be permitted to approach the competent authority in case the deficiencies mentioned in the Order are rectified/regularised by the petitioner and direction be given to the authority to reconsider the issue afresh and take appropriate decision according to law. Mr. Lotlikar, the learned Senior Counsel further contended that the issues raised in the petition may be kept open.

4. We have considered the submissions canvassed by the learned Senior Counsel as well as by the learned Government Advocate. Since the permission is sought by the learned Senior Counsel on behalf of the petitioner for rectification/regularisation of the deficiencies mentioned in the Order, we do not want to express any opinion at this stage, one way or the other. If the deficiencies on the basis of which the impugned Order dated 16.06.05 is passed by the Chief Town Planner are rectified by the petitioner, we permit the petitioner after such rectification/regularisation to approach the competent authority and if the petitioner moves the competent authority, we direct the competent authority to reconsider the issue in the light of the changed circumstances and proceed according to law. The issues raised in the petition are kept open.

In view of the aforesaid observations, the Writ Petition is disposed of.

D. D. SINHA, J.

N. A. BRITTO, J.